

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ACTELION PHARMACEUTICALS LTD and  
NIPPON SHINYAKU CO., LTD.,

Plaintiffs,

v.

MSN PHARMACEUTICALS INC.,  
MSN LABORATORIES PRIVATE LIMITED,  
ALEMBIC PHARMACEUTICALS LIMITED,  
ALEMBIC PHARMACEUTICALS, INC.,  
VGYAAN PHARMACEUTICALS LLC,  
ZYDUS WORLDWIDE DMCC and  
ZYDUS PHARMACEUTICALS (USA) INC.,

Defendants.

**Civil Action No. 1:20-03859  
(RMB) (KMW)**

**STIPULATION OF DISMISSAL AND ORDER**

Plaintiffs Actelion Pharmaceuticals Ltd and Nippon Shinyaku Co., Ltd. (collectively, “Plaintiffs”) and Defendants Zydus Worldwide DMCC and Zydus Pharmaceuticals (USA) Inc. (collectively, “Zydus” or “Defendants”) by their undersigned counsel, stipulate and agree, subject to the approval of the Court, as follows:

**WHEREAS**, Zydus has filed Abbreviated New Drug Application (“ANDA”) No. 214302 with the United States Food and Drug Administration seeking approval to make and sell selexipag tablets, 200 mcg, 400 mcg, 600 mcg, 800 mcg, 1000 mcg, 1200 mcg, 1400 mcg and 1600 mcg (“Zydus’s ANDA products”) prior to the expiration of U.S. Patent Nos. 7,205,302 (“the ’302 patent”), 8,791,122 (“the ’122 patent”) and 9,284,280 (“the ’280 patent”); and

**WHEREAS**, on April 9, 2020, Plaintiffs filed suit against Zydus alleging that submission of ANDA No. 214302 and/or the sale and use of Zydus’s ANDA products constitute

and/or induce or contribute to acts of infringement under 35 U.S.C. §§ 271 (a), (b), (c), and (e)(2);

**NOW THEREFORE**, the parties hereby stipulate and agree as follows:

1. Pursuant to Rule 41(a) and 41(c) of the Federal Rules of Civil Procedure, all claims, counterclaims, and defenses as between Plaintiffs and Zydus concerning the '122 and '280 patents are dismissed without prejudice, and each party shall bear its own costs and attorney fees with respect to the '122 and '280 patents;

2. This stipulation shall have no effect on the claims and defenses with respect to the '302 patent, which remains in suit.

**STIPULATED AND AGREED TO BY:**

/s/ Keith J. Miller

Keith J. Miller  
ROBINSON MILLER LLC  
Ironside Newark  
110 Edison Place, Suite 302  
Newark, NJ 07102  
(973) 690-5400  
KMiller@rwmlegal.com

*Attorneys for Plaintiffs  
Actelion Pharmaceuticals Ltd  
and Nippon Shinyaku Co., Ltd.*

*Of Counsel:*

Bruce M. Wexler  
Preston K. Ratliff II  
Aaron P. Selikson  
PAUL HASTINGS LLP  
200 Park Avenue  
New York, NY 10166  
(212) 318-6000

*Attorneys for Plaintiffs  
Actelion Pharmaceuticals Ltd  
and Nippon Shinyaku Co., Ltd.*

/s/ Theodora McCormick

Theodora McCormick  
Lauren B. Cooper  
Robert Lufrano  
EPSTEIN BECKER & GREEN, P.C.  
150 College Road West, Suite 301  
Princeton, New Jersey 08540  
(609) 455-1540  
tmccormick@ebglaw.com  
lcooper@ebglaw.com  
rlufrano@ebglaw.com

*Attorneys for Defendants Zydus Worldwide  
DMCC and Zydus Pharmaceuticals (USA) Inc.*

*Of Counsel:*

Michael J. Gaertner  
Myoka K. Goodin  
Jennifer M. Coronel  
August M. Melcher  
LOCKE LORD LLP  
111 South Wacker Drive  
Chicago, IL 60606  
(312) 443-0700

*Attorneys for Defendants Zydus Worldwide  
DMCC and Zydus Pharmaceuticals (USA) Inc.*

**IT IS SO ORDERED, this 27th day of January, 2021**

A handwritten signature in black ink, appearing to read "Renée Marie Bumb". The signature is fluid and cursive, with the first name "Renée" being more prominent.

---

The Honorable Renée Marie Bumb  
United States District Judge